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# Mark S.W. Hoyle, *Mixed Courts of Egypt*

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## RÉFÉRENCE

Mark S.W. Hoyle, *Mixed Courts of Egypt*, London/Dordrecht/Boston : Graham & Trotman, (Arab & Islamic Laws Series) xxvii, 206 pp, tables, appendices, index, 1991

- 1 The Mixed Courts, their organization and composition, as well as the political and diplomatic battle for their foundation, have been discussed in hundreds of books and articles. These works date mostly from the time of the Mixed Courts. They are the memoirs of judges, lawyers, and legal administrators or parliamentary and diplomatic reports, thus writings which are surveys as much as historical sources. A classical example is the 1930 *The Mixed Courts of Egypt* by Jasper Yeates Brinton, who was a judge of the Mixed Courts himself. Almost none of these works used the cases of the Mixed Courts.
- 2 Almost none of these works tells the story of the Mixed Courts through the eyes of their legal cases. *Mixed Courts of Egypt* by Mark Hoyle, however, does. Divided into seven periods (chapters 3-9), the time from the foundation and opening of the Mixed Courts in 1875/1876 until their closing in 1949 is chronologically covered. For each period, Hoyle shows how the practical work of the Courts, their interpretation of the theory of the Mixed Codes, was affected by politics. The analysis of the cases reveals that it is necessary to refer to the cases of a court not only for its reality but also for a better understanding of its procedure. Although their statutes provided that they were competent in all civil, commercial, and criminal cases between natives and foreigners and between foreigners of different nationalities, for a long time the Mixed Courts did not know how to define who was a foreigner. In contrast to the capitulations system, under the regime of the Mixed Courts, a foreigner was not any longer a member of a capitulatory nation, or anyone represented by such a power, but he or she was someone who was not a native, either

Egyptian or Ottoman. For Hoyle, this is sufficient proof that the Mixed Courts were not part of the capitulations but, on the contrary, were designed to restrict consular jurisdiction, having been the legal expression of the capitulations.

- 3 Hoyle's book does not seek to replace that of Brinton. Some flaws in its account of the prehistory of the Mixed Courts, their origins, structure, and laws (chapters 1 and 2) make this impossible. Yet, the book is a highly valuable and recommended study, which ideally complements that of Brinton.
- 4 Its high price unfortunately prevents many libraries from purchasing a copy of *Mixed Courts of Egypt*. The interested reader may, however, be lucky and have access to a library subscribed to *Arab Law Quarterly* in which all 10 chapters of the book had been pre-published.

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